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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/839,945 | 04/19/2001 | Jen-Hui Tsai | 55841 (71987) | 4090 |
| 21874 | 7590 | 04/16/2004 | EXAMINER | |
| EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205 | | | HARVEY, DIONNE | |
| | | ART UNIT | PAPER NUMBER | 8 |
| | | 2643 | | |
| DATE MAILED: 04/16/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/839,945 | TSAI, JEN-HUI |
| | Examiner | Art Unit |
| | Dionne N Harvey | 2643 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) ____ is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1.2 and 4 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Balogh (US 4,054,748)

Regarding claim 1, shown in figure 4, Balogh teaches a speaker system, comprising: a sound box having an interior divided by a plurality of dividers (shown in figure 4, but not labeled) into a plurality of air chambers (Co_2, Co_3, Co_4), each air chamber being formed with an air passing hole ($mc-rc$, $m=c-r=c$) on each of the dividers connecting at least a neighboring air chamber and at least an air dissipating hole ($R2M2, R3M3, R4M4$) connecting the atmosphere; and a speaker ($Z1M1$) retained in a mounting opening (shown, but not labeled) formed in the sound box which connects one of the air chambers.

Regarding claim 2, Balogh teaches that the speaker ($Z1M1$) is retained in a mounting opening which connects the first air chamber (Co_2) of the sound box.

Regarding claim 4, Balogh teaches that the dividers are parallelly arranged in the sound box.

Response to Arguments

Applicant's arguments filed 3/31/04 have been fully considered but they are not persuasive.

I. In response to applicant's argument that The Air Passing Holes Provided In The Applicant's Claimed Invention Efficiently Depressurize And Discharge Each Of The Pressurized Air Cushions After Its Performance Is Completed:

- a. First, The Examiner is confused by the Applicant's use of the term "air cushions".
- b. Second, the features upon which applicant relies (i.e., air passing holes efficiently depressurize and discharge each of the pressurized air "cushions" after its performance is completed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

II. In response to applicant's argument that In Balogh, The Apertures Are Formed In The Phase Shifting Members, Not On The Dividers, As Recited In Claim 1:

The Examiner is unclear about the distinction the Applicant attempts to suggest between the immediate invention and that which is taught by Balogh (US 4,054,748). The disclosure of Balogh clearly teaches that the acoustic masses ($mc-rc$, $m=c-r=c$) comprise one or more apertures, which the Examiner has previously indicated as being

capable of passing air. Furthermore, the disclosure of Balogh teaches that the phase shifting members (*R2M2,R3M3,R4M4*) are coupled to the membrane via the same acoustic masses (*mc-rc, m=c-r=c*), which further supports the Examiner's opinion that the air-passing and air-dissipating holes of the invention are anticipated by the acoustic masses (*mc-rc, m=c-r=c*) of the Balogh reference. Without further clarification from the Applicant, and as illustrated in the figures 1,4 and 8, the air passing holes (*mc-rc, m=c-r=c*) are clearly formed on the dividers of the Balogh housing. The rejection is therefore, maintained.

Conclusion

This is a Request For Continued Examination of applicant's earlier Application No. 09/839,945. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N Harvey whose telephone number is 703-305-1111. The examiner can normally be reached on 9-6:30 M-F and alternating Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dionne Harvey



HUYEN LE
PRIMARY EXAMINER